

KARIN G. PAGNANELLI (SBN 174763) kgp@msk.com  
MARC E. MAYER (SBN 190969) mem@msk.com  
GILBERT S. LEE (SBN 267247) gsl@msk.com  
MITCHELL SILBERBERG & KNUPP LLP  
11377 West Olympic Boulevard  
Los Angeles, CA 90064-1683  
Telephone: (310) 312-2000  
Facsimile: (310) 312-3100

Attorneys for Defendants  
ACTIVISION BLIZZARD, INC. and  
ACTIVISION PUBLISHING, INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MIL-SPEC MONKEY, INC., a California  
corporation,

Plaintiff,

v.

ACTIVISION BLIZZARD, INC., a Delaware  
corporation; ACTIVISION PUBLISHING,  
INC., a Delaware corporation; and DOES 1 -  
25, inclusive,

Defendants.

CASE NO. CV14-02361 RS

**DECLARATION OF YALE MILLER IN  
SUPPORT OF MOTION FOR PARTIAL  
SUMMARY JUDGMENT AS TO  
PLAINTIFF'S SECOND, THIRD,  
FOURTH, AND FIFTH CLAIMS FOR  
RELIEF**

Date: November 20, 2014  
Time: 1:30 p.m.  
Judge: Hon. Richard Seeborg

1 I, Yale Miller declare as follows:

2  
3 1. I am a Senior Producer at Activision Publishing, Inc. ("Activision"). I assisted in  
4 production of the game Call of Duty: Ghosts ("*Ghosts*"). Accordingly, I have knowledge of  
5 *Ghosts*, its development, and its content. I also have knowledge of the *Call of Duty* series of video  
6 games as a whole, based on my affiliation with Activision and my company's creation of many  
7 *Call of Duty* titles. I make this declaration based upon my personal knowledge or based upon  
8 business records maintained in the ordinary course of business. If called as a witness, I could and  
9 would competently testify to all of the following.

10  
11 **Activision and the Call of Duty Games**

12  
13 2. The *Call of Duty* series of video games are "first-person" military action games, in  
14 which the player steps into the shoes of a military soldier or special forces operative and fights  
15 against computer- or human-controlled opponents across a variety of computer-generated  
16 battlefields. The first game in the series (titled simply *Call of Duty*) was released in 2003. *Call of*  
17 *Duty II* was released in 2005, and a new installment of the franchise has been published at least  
18 each year since that time. To date, Activision has released ten "core" *Call of Duty* games, as well  
19 as several "spin-off" or related titles, including titles for handheld consoles such as the Nintendo  
20 DS and PlayStation Vita and for mobile phones. The *Call of Duty* games have been critically  
21 acclaimed and have won numerous "Game of the Year" awards.

22  
23 3. Each of the *Call of Duty* games enables players to engage in military combat in a  
24 variety of different time periods and locations. Four of the core *Call of Duty* games take place  
25 during World War II, and place players in the shoes of soldiers fighting in historic battles such as  
26 the Normandy invasion or the siege of Stalingrad. Other (mainly later) installments of the  
27 franchise, including *Call of Duty 4: Modern Warfare*, *Call of Duty: Modern Warfare 2*, *Call of*

1 *Duty: Modern Warfare 3* and, most recently, *Call of Duty: Ghosts* takes place in a contemporary  
 2 or near-future setting. The *Call of Duty: Modern Warfare* games and *Ghosts* allow players to  
 3 participate in modern military or special forces missions in global hot spots such as the Middle  
 4 East or Russia or in near-future war-torn versions of American and European cities. Across the  
 5 franchise, substantial efforts are made to render the locations, uniforms, weapons, vehicles and  
 6 equipment in a manner that is accurate, authentic, or convincing in the context of the game or  
 7 particular game mode. Thus, for example, the *Call of Duty* games often depict real-life military  
 8 units (such as the United States Army Rangers, the British SAS, and the Russian Spetsnaz). The  
 9 games also include military weapons and vehicles that are often based on actual weapons and  
 10 vehicles or on a studied approximation of what such weapons and vehicles would be in 5 or 10  
 11 years' time. Additionally, the *Call of Duty* games include faithful and accurate depictions of the  
 12 uniforms and equipment worn by soldiers, both historically and during the present day. All of  
 13 these elements combine to draw the player into a convincing game world.

14  
 15 4. Each of the *Call of Duty* games includes both a single player "campaign" mode and  
 16 a robust online competitive or cooperative multiplayer mode. The single player campaign  
 17 typically consists of a series of discrete missions that are tied together with an overarching  
 18 narrative, generally lasting between 6 and 8 hours (though the actual length of play can vary from  
 19 player to player depending on player skill and player choices). The multiplayer game allows  
 20 players to select a soldier and compete against or cooperate with others in a variety of both team-  
 21 based and individual game types.

**Call of Duty: Ghosts**

5. *Call of Duty: Ghosts* was released in November 2014 for Windows computers and several video game consoles, including the Xbox One, Xbox 360, PlayStation 3, PlayStation 4, and Nintendo Wii U consoles. Attached hereto as Exhibit 1 is a true and correct retail copy of the Xbox 360 version of *Ghosts*. This version is playable on any standard Xbox 360 console, provided that the console contains a hard drive with sufficient storage space to hold certain game content. Also attached hereto as Exhibit 2 is a true and correct copy of the front and back cover of the packaging for the Xbox 360 version of *Ghosts*. The packaging is substantively the same for all other console versions.

6. Like the other *Call of Duty* titles, *Ghosts* is a military action game that allows the player to engage in simulated contemporary military combat. *Ghosts* contains nearly 100 different contemporary weapons, including guns, melee weapons, rocket launchers, and grenades, many of which can be modified or customized with dozens of attachments such as laser sights, thermal scopes, and silencers. The game also includes and depicts nearly 40 different vehicles, including helicopters, other aircrafts, ground vehicles such as jeeps and snowmobiles, and ships. Players also have access to a variety of military equipment and tools such as laser drills, parachutes, night vision goggles, and strobe lights.

7. The primary setting of *Ghosts* is North America and South America approximately 10 years in the future. In the alternate future of *Ghosts*, the Middle East has been destroyed, the world faces a global energy crisis, and the oil-producing nations of South America have formed a global alliance known as "The Federation." In the single player campaign, the player assumes the role of members of an elite U.S. special forces team known as the Ghosts. As a soldier named Logan Walker, the player fights alongside the Ghosts in a variety of missions around the globe, including in Caracas, the Andes, and Antarctica. The single player game includes 18 discrete story-based missions, which take from 6 to 8 hours to play through and complete. Attached hereto

1 as Exhibit 3 is a true and correct copy of a video trailer that was released to the public on or about  
2 September 2013 depicting excerpts of the single player campaign.

3  
4 8. *Ghosts* also contains a robust online multiplayer game mode. The game shipped  
5 with 14 multiplayer “maps” (i.e. battlefields) and 14 multiplayer game types, including team-  
6 based, cooperative, and “free-for-all” game types. In each of these game types, players take  
7 control of a military soldier and attempt to complete various objectives, such as one in which you  
8 try to run through a goal at the enemy base while protecting your goal. *Ghosts* also includes two  
9 new game types -- “Squads,” where players can play with computer-controlled or player-  
10 controlled teammates against computer-controlled enemies, and “Extinction,” in which four  
11 players work together to destroy an alien infestation.

12  
13 9. One new feature offered by *Ghosts* is that before engaging in online play the player  
14 may select and “customize” his or her soldier in a variety of ways using a tool known as “Create-  
15 A-Soldier.” The “Create-A-Soldier” feature allows players to outfit and modify his or her soldier  
16 in a variety of ways. Among the attributes that can be modified are the player’s weapons, special  
17 skills (known as “perks”), and gear “loadouts” (packages of weapons and gear available at the  
18 beginning of a match). Additionally, players may modify the appearance of his or her soldier to  
19 reflect the player’s personal tastes or to allow the soldier to be more easily recognizable on the  
20 battlefield. Under a menu titled “Customize Appearance,” the player may select the soldier’s  
21 gender and ethnicity. Players may also choose from a variety of uniforms, uniform styles,  
22 headgear, and patches to be worn on the uniform. Further, players may choose a distinct  
23 “background” to be displayed behind the player’s name during a multiplayer match. Thousands of  
24 different combinations are available to the player. Many of the specific customization choices are  
25 locked (i.e. unavailable to the player) at the outset of the game, but become “unlocked” (available)  
26 after a certain objective or challenge is completed. For example, the “Delta Gunner” headgear  
27 initially is unavailable but becomes available after winning 25 “Team Deathmatch” matches.  
28 Attached hereto as Exhibit 4 is a short video capture reflecting the various options available to the

1 player on the “Customize Appearance” menu, including a representative sample of the military  
2 morale patches available to players.

3  
4 10. As noted, one of the options the player is presented with in the “Customize  
5 Appearance” menu is the selection of a “patch” to be placed on the player’s uniform and on their  
6 play card to identify the player. More than 500 patches were included with the retail copy of the  
7 game, and additional patches have been added via content packs downloadable from services such  
8 as Xbox Live or the PlayStation Network. Over 600 patches are available in conjunction with the  
9 game. Each of the patches offered to players depicts a small cartoon image or icon inside a  
10 geometric shape such as a circle, octagon, or shield. Each patch is accompanied by a short phrase  
11 or slogan. For example, a patch depicting fireworks is accompanied by the phrase “Now It’s A  
12 Party,” and one depicting a black widow spider contains the phrase “Man-eater.” At the start of  
13 the game, 32 “standard issue” patches are immediately available to the player, including patches  
14 depicting a rhinoceros, bumblebee, black widow, snake, hot dog, dollar sign, fireworks, and many  
15 others. One of the “standard issue” patches is an image of a chimpanzee face, accompanied by the  
16 phrase “Is not amused” (the “Monkey Patch”). The patches other than the “standard issue” ones  
17 are initially “locked” (they are grayed out and accompanied by an image of a padlock) and become  
18 “unlocked” and available to player as a reward for completing objectives in multiplayer matches.

19  
20 11. Selecting a particular patch causes the patch to be placed on the left arm of the  
21 soldier’s uniform. During a multiplayer match, depending on various player choices and  
22 gameplay, a player may briefly see another player’s selected patch on that player’s uniform.  
23 Additionally, if a player accomplishes certain objectives in certain multiplayer modes of the game  
24 (e.g., a string of kills, securing a particular area, or capturing a flag), the name of the player who  
25 performed the objective is flashed briefly on the screen to all players in the match, along with a  
26 small image of the patch selected by that player and, depending on the objective, sometimes also  
27 with the “background” image selected by the player. The patch also is displayed to the player

1 along with other information as part of a “match summary” screen after the conclusion of the  
2 match. Attached hereto as Exhibit 5 is a short video capture depicting live multiplayer gameplay  
3 in *Ghosts*, which shows one of the game types and one of the players in the match has selected the  
4 Monkey Patch.

5  
6 12. Notably, a player does not have to customize his or her soldier nor does he or she  
7 have to select a patch even if other aspects of the soldier are customized. In such cases, the patch  
8 that displays on the uniform and identifies the player is defaulted to a “Recruit” patch, which  
9 consists of a star and golden-colored wings. Many players never customize their soldiers at all  
10 and many others never customize the patch for their soldier. If a player does decide to customize  
11 the patch, a player can select many patches other than the Monkey Patch. If the default patch or  
12 some other patch is selected, a player would never see the Monkey Patch at all while playing  
13 *Ghosts* unless one of the other players in a multiplayer match selected the Monkey Patch as his or  
14 her patch. Because of the large number of patches available to players, the Monkey Patch might  
15 not be seen during any particular multiplayer match, and, indeed, it might not be seen for dozens  
16 of matches or for many hours. The Monkey Patch does not appear in any part of the single player  
17 campaign mode.

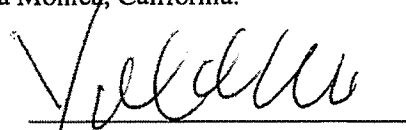
18  
19 13. I understand that MSM has claimed that the Monkey Patch was used in a  
20 multiplayer pre-release trailer for *Ghosts* that was released online in or around August 2013.  
21 Attached as Exhibit 6 is a true and correct copy of the multiplayer pre-release trailer. As can be  
22  
23  
24  
25  
26  
27



1 seen in the trailer, the only use of the Monkey Patch in the trailer is as a very small image along  
2 with more than ten other patches scrolling across the bottom of the screen; it appears for  
3 approximately 1-2 seconds during a quick "preview" of the "Create-A-Soldier" feature.  
4

5 I declare under penalty of perjury under the laws of the United States of America that the  
6 foregoing is true and correct.  
7

8 Executed on this 14<sup>th</sup> day of October 2014 at Santa Monica, California.  
9

10   
11 Yale Miller  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27



# EXHIBIT 1

1 KARIN G. PAGNANELLI (SBN 174763) kgp@msk.com  
MARC E. MAYER (SBN 190969) mem@msk.com  
2 GILBERT S. LEE (SBN 267247) gsl@msk.com  
MITCHELL SILBERBERG & KNUPP LLP  
3 11377 West Olympic Boulevard  
Los Angeles, CA 90064-1683  
4 Telephone: (310) 312-2000  
Facsimile: (310) 312-3100  
5

Attorneys for Defendants  
6 ACTIVISION BLIZZARD, INC. and  
ACTIVISION PUBLISHING, INC.  
7

8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10

11  
12 MIL-SPEC MONKEY, INC., a California  
corporation,

13 Plaintiff,  
14

15 v.  
16

ACTIVISION BLIZZARD, INC., a Delaware  
16 corporation; ACTIVISION PUBLISHING,  
INC., a Delaware corporation; and DOES 1 -  
17 25, inclusive,

18 Defendants.  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

CASE NO. CV14-02361 RS

**EXHIBIT 1: GAME**

Date: November 20, 2014  
Time: 1:30 pm.  
Judge: Hon. Richard Seeborg

CASE NO. CV14-02361 RS

MANUAL FILING NOTIFICATION

Mitchell  
Silberberg &  
Knupp LLP

6421747.1

**MANUAL FILING NOTIFICATION**

Regarding: Exhibit 1 to Declaration of Yale Miller in Support of Defendants' Motion for Partial Summary Judgment as to Plaintiff's Second, Third, Fourth, and Fifth Claims for Relief .

This filing is in paper or physical form only, and is being maintained in the case file in the Clerk's office.

If you are a participant on this case, this filing will be served in hard-copy or electronic form shortly.

For information on retrieving this filing directly from the court, please see the court's main web site at <http://www.cand.uscourts.gov> under Frequently Asked Questions (FAQ).

This filing was not efiled for the following reason(s):

☐ Voluminous Document (PDF file size larger than efile system allowances)

☐ Unable to Scan Documents

☒ Physical Object (description): **GAME (*Call of Duty: Ghosts*)**

☐ Non Graphical/Textual Computer File (audio, video, etc.) on CD or other media

☐ Item Under Seal

☐ Conformance with the Judicial Conference Privacy Policy (General Order 53).

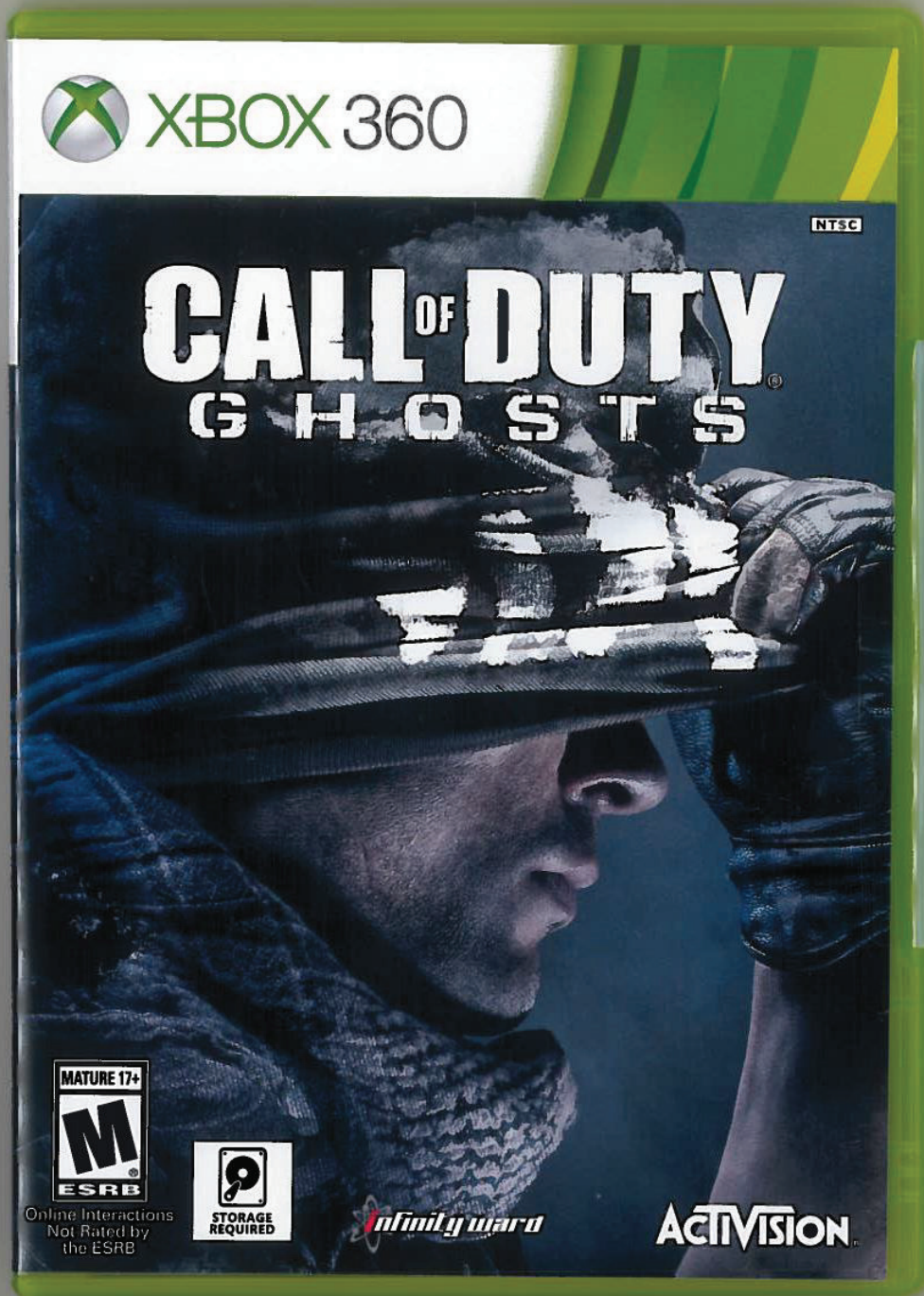
☐ Other (description): \_\_\_\_\_

DATED: October 16, 2014

KARIN G. PAGNANELLI  
MARC E. MAYER  
GILBERT S. LEE  
MITCHELL SILBERBERG & KNUPP LLP

By: /s/ Marc E. Mayer  
Marc E. Mayer  
Attorneys for Defendants  
ACTIVISION BLIZZARD, INC. and  
ACTIVISION PUBLISHING, INC.

# EXHIBIT 2







# A CHANGED WORLD, REDEFINED MULTIPLAYER, AND ALL-NEW SQUADS MODE



**THE BEST SELLING FIRST PERSON ACTION FRANCHISE OF ALL TIME**


**XBOX LIVE**

The online service for Xbox 360

Get an Xbox Live Gold membership to play games online with friends

XBOX 360

players 1-2

co-op 2

3 GB required to play game

5 MB to save game

HDTV 720p/1080i/1080p

microphone

in-game Dolby® Digital

**XBOX LIVE**

online multiplayer 1-12

co-op 2-6

game-content download

leaderboards

spectator mode

**For the best experience play on 720p or higher resolutions.**

**Additional system requirements:** Minimum USB 2.0 Flash Drive (formatted for Xbox) or Xbox 360 Hard Drive with 3 GB free space required for play. Hard drive sold separately for Xbox 360 4GB, and original Xbox 360 Arcade, Core consoles.

**For use only with Xbox 360® entertainment systems with "NTSC" designation. Xbox 360 requires up to 256 MB for system updates and additional storage for some game features. Storage requirements subject to change. Unauthorized copying, reverse engineering, transmission, public performance, rental, pay for play, or circumvention of copy protection is strictly prohibited.**

**Xbox Live® System Requirements:** In available games, paid subscription required for online multiplayer: some features and downloads require additional storage, hardware, and/or fees. Xbox Live is not available in all countries, see [www.xbox.com/live/countries](http://www.xbox.com/live/countries). Broadband internet service and 256 MB or greater required. A hard drive may be required for some features. Features and system requirements may change without notice. Subject to Terms of Use (at [www.xbox.com/live/terms/sofuse](http://www.xbox.com/live/terms/sofuse)). Under 13 requires parental consent. See [www.xbox.com/live](http://www.xbox.com/live) for full details.

Activision Publishing, Inc. P.O. Box 67713, Los Angeles, CA 90067.

Separate cables may be required for HDTV and Dolby Digital. Sold Separately. Confidential unpublished work. © 1999-2004 Dolby Laboratories. All rights reserved. Dolby and the double-D symbol are trademarks of Dolby Laboratories. © 2011 Activision Publishing, Inc. ACTIVISION, CALL OF DUTY, and CALL OF DUTY GHOSTS are trademarks of Activision Publishing, Inc. All other trademarks and trade names are the properties of their respective owners. This product contains software technology licensed from Id Software ("Id Technology"). Id Technology ©1999-2013 Id Software, Inc. The ratings icon is a registered trademark of the Entertainment Software Association. Activision makes no guarantees regarding the availability of online play and may modify or discontinue online service in its discretion without notice, including for example, ceasing online service for economic reasons due to a limited number of players continuing to make use of the service over time. 84681207U5

**WARNING** Read inside the case for information about photosensitive seizures and other important safety and health information.





**MATURE 17+** Blood  
Drug Reference  
Intense Violence  
Strong Language

  
 0 47875 18468 1 4  
**PROOF OF PURCHASE**





  
**Microsoft**

# EXHIBIT 3



KARIN G. PAGNANELLI (SBN 174763) kgp@msk.com  
MARC E. MAYER (SBN 190969) mem@msk.com  
GILBERT S. LEE (SBN 267247) gsl@msk.com  
MITCHELL SILBERBERG & KNUPP LLP  
11377 West Olympic Boulevard  
Los Angeles, CA 90064-1683  
Telephone: (310) 312-2000  
Facsimile: (310) 312-3100

Attorneys for Defendants  
ACTIVISION BLIZZARD, INC. and  
ACTIVISION PUBLISHING, INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MIL-SPEC MONKEY, INC., a California  
corporation,

Plaintiff,

v.

ACTIVISION BLIZZARD, INC., a Delaware  
corporation; ACTIVISION PUBLISHING,  
INC., a Delaware corporation; and DOES 1 -  
25, inclusive,

Defendants.

CASE NO. CV14-02361 RS

**EXHIBIT 3: DVD (OFFICIAL CALL OF  
DUTY: GHOSTS SINGLE PLAYER  
CAMPAIGN TRAILER)**

Date: November 20, 2014  
Time: 1:30 p.m.  
Judge: Hon. Richard Seeborg

CASE NO. CV14-02361 RS

MANUAL FILING NOTIFICATION

**MANUAL FILING NOTIFICATION**

Regarding: Exhibit 3 to Declaration of Yale Miller in Support of Defendants' Motion for Partial Summary Judgment as to Plaintiff's Second, Third, Fourth, and Fifth Claims for Relief.

This filing is in paper or physical form only, and is being maintained in the case file in the Clerk's office.

If you are a participant on this case, this filing will be served in hard-copy or electronic form shortly.

For information on retrieving this filing directly from the court, please see the court's main web site at <http://www.cand.uscourts.gov> under Frequently Asked Questions (FAQ).

This filing was not efiled for the following reason(s):

☐ Voluminous Document (PDF file size larger than efilng system allowances)

☐ Unable to Scan Documents

☐ Physical Object (description): \_\_\_\_\_

☒ Non Graphical/Textual Computer File (audio, video, etc.) on CD or other media (DVD)

☐ Item Under Seal

☐ Conformance with the Judicial Conference Privacy Policy (General Order 53).

☐ Other (description): \_\_\_\_\_

DATED: October 16, 2014

KARIN G. PAGNANELLI  
MARC E. MAYER  
GILBERT S. LEE  
MITCHELL SILBERBERG & KNUPP LLP

By: /s/ Marc E. Mayer  
Marc E. Mayer  
Attorneys for Defendants  
ACTIVISION BLIZZARD, INC. and  
ACTIVISION PUBLISHING, INC.

# EXHIBIT 4

1 KARIN G. PAGNANELLI (SBN 174763) kgp@msk.com  
2 MARC E. MAYER (SBN 190969) mem@msk.com  
3 GILBERT S. LEE (SBN 267247) gsl@msk.com  
4 MITCHELL SILBERBERG & KNUPP LLP  
5 11377 West Olympic Boulevard  
6 Los Angeles, CA 90064-1683  
7 Telephone: (310) 312-2000  
8 Facsimile: (310) 312-3100

9 Attorneys for Defendants  
10 ACTIVISION BLIZZARD, INC. and  
11 ACTIVISION PUBLISHING, INC.

12 UNITED STATES DISTRICT COURT  
13  
14 NORTHERN DISTRICT OF CALIFORNIA

15 MIL-SPEC MONKEY, INC., a California  
16 corporation,

17 Plaintiff,

18 v.

19 ACTIVISION BLIZZARD, INC., a Delaware  
20 corporation; ACTIVISION PUBLISHING,  
21 INC., a Delaware corporation; and DOES 1 -  
22 25, inclusive,

23 Defendants.

CASE NO. CV14-02361 RS

**EXHIBIT 4: DVD (COD GHOSTS MP  
PATCH CUSTOMIZATION)**

Date: November 20, 2014  
Time: 1:30 p.m.  
Judge: Hon. Richard Seeborg

**MANUAL FILING NOTIFICATION**

Regarding: Exhibit 4 to Declaration of Yale Miller in Support of Defendants' Motion for Partial Summary Judgment as to Plaintiff's Second, Third, Fourth, and Fifth Claims for Relief .

This filing is in paper or physical form only, and is being maintained in the case file in the Clerk's office.

If you are a participant on this case, this filing will be served in hard-copy or electronic form shortly.

For information on retrieving this filing directly from the court, please see the court's main web site at <http://www.cand.uscourts.gov> under Frequently Asked Questions (FAQ).

This filing was not efiled for the following reason(s):

☐ Voluminous Document (PDF file size larger than efilng system allowances)

☐ Unable to Scan Documents

☐ Physical Object (description): \_\_\_\_\_

☒ Non Graphical/Textual Computer File (audio, video, etc.) on CD or other media ("Patch Gameplay" Video)

☐ Item Under Seal

☐ Conformance with the Judicial Conference Privacy Policy (General Order 53).

☐ Other (description): \_\_\_\_\_

DATED: October 16, 2014

KARIN G. PAGNANELLI  
MARC E. MAYER  
GILBERT S. LEE  
MITCHELL SILBERBERG & KNUPP LLP

By: /s/ Marc E. Mayer  
Marc E. Mayer  
Attorneys for Defendants  
ACTIVISION BLIZZARD, INC. and  
ACTIVISION PUBLISHING, INC.

# EXHIBIT 5

1 KARIN G. PAGNANELLI (SBN 174763) kgp@msk.com  
MARC E. MAYER (SBN 190969) mem@msk.com  
2 GILBERT S. LEE (SBN 267247) gsl@msk.com  
MITCHELL SILBERBERG & KNUPP LLP  
3 11377 West Olympic Boulevard  
Los Angeles, CA 90064-1683  
4 Telephone: (310) 312-2000  
Facsimile: (310) 312-3100

5 Attorneys for Defendants  
6 ACTIVISION BLIZZARD, INC. and  
ACTIVISION PUBLISHING, INC.  
7

8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10

11  
12 MIL-SPEC MONKEY, INC., a California  
corporation,

13 Plaintiff,

14 v.

15 ACTIVISION BLIZZARD, INC., a Delaware  
16 corporation; ACTIVISION PUBLISHING,  
INC., a Delaware corporation; and DOES 1 -  
17 25, inclusive,

18 Defendants.  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

CASE NO. CV14-02361 RS

**EXHIBIT 5: DVD (COD GHOSTS MP  
PATCH GAMEPLAY)**

Date: November 20, 2014  
Time: 1:30 p.m.  
Judge: Hon. Richard Seeborg

CASE NO. CV14-02361 RS

MANUAL FILING NOTIFICATION



**MANUAL FILING NOTIFICATION**

Regarding: Exhibit 5 to Declaration of Yale Miller in Support of Defendants' Motion for Partial Summary Judgment as to Plaintiff's Second, Third, Fourth, and Fifth Claims for Relief .

This filing is in paper or physical form only, and is being maintained in the case file in the Clerk's office.

If you are a participant on this case, this filing will be served in hard-copy or electronic form shortly.

For information on retrieving this filing directly from the court, please see the court's main web site at <http://www.cand.uscourts.gov> under Frequently Asked Questions (FAQ).

This filing was not efiled for the following reason(s):

☐ Voluminous Document (PDF file size larger than efilng system allowances)

☐ Unable to Scan Documents

☐ Physical Object (description): \_\_\_\_\_

☒ Non Graphical/Textual Computer File (audio, video, etc.) on CD or other media ("Patch Gameplay" Video)

☐ Item Under Seal

☐ Conformance with the Judicial Conference Privacy Policy (General Order 53).

☐ Other (description): \_\_\_\_\_

DATED: October 16, 2014

KARIN G. PAGNANELLI  
MARC E. MAYER  
GILBERT S. LEE  
MITCHELL SILBERBERG & KNUPP LLP

By: /s/ Marc E. Mayer  
Marc E. Mayer  
Attorneys for Defendants  
ACTIVISION BLIZZARD, INC. and  
ACTIVISION PUBLISHING, INC.

# EXHIBIT 6

1 KARIN G. PAGNANELLI (SBN 174763) kgp@msk.com  
2 MARC E. MAYER (SBN 190969) mem@msk.com  
3 GILBERT S. LEE (SBN 267247) gsl@msk.com  
4 MITCHELL SILBERBERG & KNUPP LLP  
5 11377 West Olympic Boulevard  
6 Los Angeles, CA 90064-1683  
7 Telephone: (310) 312-2000  
8 Facsimile: (310) 312-3100

9 Attorneys for Defendants  
10 ACTIVISION BLIZZARD, INC. and  
11 ACTIVISION PUBLISHING, INC.

12 UNITED STATES DISTRICT COURT  
13  
14 NORTHERN DISTRICT OF CALIFORNIA  
15

16 MIL-SPEC MONKEY, INC., a California  
17 corporation,

18 Plaintiff,

19 v.

20 ACTIVISION BLIZZARD, INC., a Delaware  
21 corporation; ACTIVISION PUBLISHING,  
22 INC., a Delaware corporation; and DOES 1 -  
23 25, inclusive,

24 Defendants.  
25  
26  
27  
28

CASE NO. CV14-02361 RS

**EXHIBIT 6: DVD (OFFICIAL CALL OF  
DUTY: GHOSTS MULTIPLAYER  
RETAIL TRAILER)**

Date: November 20, 2014  
Time: 1:30 p.m.  
Judge: Hon. Richard Seeborg

**MANUAL FILING NOTIFICATION**

Regarding: Exhibit 6 to Declaration of Yale Miller in Support of Defendants' Motion for Partial Summary Judgment as to Plaintiff's Second, Third, Fourth, and Fifth Claims for Relief.

This filing is in paper or physical form only, and is being maintained in the case file in the Clerk's office.

If you are a participant on this case, this filing will be served in hard-copy or electronic form shortly.

For information on retrieving this filing directly from the court, please see the court's main web site at <http://www.cand.uscourts.gov> under Frequently Asked Questions (FAQ).

This filing was not efiled for the following reason(s):

☐ Voluminous Document (PDF file size larger than efilng system allowances)

☐ Unable to Scan Documents

☐ Physical Object (description): \_\_\_\_\_

☒ Non Graphical/Textual Computer File (audio, video, etc.) on CD or other media (DVD)

☐ Item Under Seal

☐ Conformance with the Judicial Conference Privacy Policy (General Order 53).

☐ Other (description): \_\_\_\_\_

DATED: October 16, 2014

KARIN G. PAGNANELLI  
MARC E. MAYER  
GILBERT S. LEE  
MITCHELL SILBERBERG & KNUPP LLP

By: /s/ Marc E. Mayer  
Marc E. Mayer  
Attorneys for Defendants  
ACTIVISION BLIZZARD, INC. and  
ACTIVISION PUBLISHING, INC.